

**CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE**

**INITIAL STATEMENT OF REASONS FOR THE  
PROPOSED ADOPTION OF THE CIRM GRANT ADMINISTRATION POLICY FOR  
MAJOR FACILITIES GRANTS (CIRM RFA 07-03)**

**HEARING DATE:** None Scheduled.

**SUBJECT MATTER OF PROPOSED REGULATIONS:** CIRM Grant Administration Policy for Major Facilities Grants – RFA 07-03

**SECTIONS AFFECTED:** The proposed regulations adopt Chapter 7 and section 100701 of Title 17 of the California Code of Regulations.

**SPECIFIC PURPOSE AND FACTUAL BASIS FOR EACH ADOPTION:**

**SECTION 100701 – GRANTS ADMINISTRATION POLICY FOR ACADEMIC AND  
NON-PROFIT INSTITUTIONS – MAJOR FACILITIES GRANTS:**

**Purpose:**

The purpose of Section 100701 is to describe the terms and conditions by which recipients of Major Facilities grants must abide during the term of the grant.

**Subdivision (a):** This subdivision describes the scope of the regulation, indicating the regulation reaches recipients of a facilities grant as authorized by Health and Safety Code section 125290.70 from the CIRM. The subdivision incorporates by reference the CIRM's Grant Administration Policy for Facilities and Equipment Grants as identified specifically in subdivision (b) of the regulation.

**Subdivision (b):** This subdivision identifies which provisions of the policy are being incorporated by reference. The policy in its entirety is to be incorporated, with the exception of its preface.

**Subdivision (c):** This subdivision indicates when amendments to the policy (effectuated by amendment to this regulation) are effective as to grants already funded and active. In such circumstances, the new policy terms will become effective on the anniversary date of the Notice of Grant Award following the effective date of the regulation's amendment, unless specified otherwise in the regulation or policy amendment.

**Subdivision (d):** This subdivision indicates the term of enforcement of the policy and informs grantees that should the CIRM cease to exist the provisions of the regulation remain enforceable by the State of California.

Rationale:

**Subdivision (a)** is necessary to provide clarity in the scope of the policy – applicable to recipients of Major Facilities grants. The subdivision establishes the rule that all covered recipients are bound by the terms and conditions of the policy.

Title 1 of the California Code of Regulations, section 20, permits agencies to incorporate by reference documents under certain conditions. Subdivision (c)(1) of that regulation allows such incorporation when to do otherwise be “cumbersome, unduly expensive, or otherwise impractical” to publish the document in regulatory form. In light of the size and magnitude of the policy and given the burdens associated with translating each of the document’s separate provisions into specific regulations, incorporation by reference serves the needs of both efficient use of resources, avoids the cumbersome task of rewriting an entire manual, and avoids the risk of inadvertent disagreement between the regulations and the policies being implemented.

**Subdivision (b):** This section clarifies the specific sections of the policy which are being incorporated by reference, as permitted by Title 1 of the California Code of Regulations, section 20, subdivision (c)(5). Because the unincorporated part of the policy is informational or background material only, it is not incorporated in the regulation.

**Subdivision (c):** This subdivision is necessary to address what will be a common-place circumstance, wherein active grants that may span several years will become subject from time to time to amendments to the policy. Once those amendments are effective (through amendment of the policy and the regulation incorporating it), the regulation clarifies that the amended policy will become effective as to existing grants at the anniversary date of the Notice of Grant Award.

**Subdivision (d):** The rationale for this subdivision is to ensure that grantees are aware that the terms and conditions of the grant awards survive even in the event the CIRM should no longer exist.

**DOCUMENT INCORPORATED BY REFERENCE:**

**CIRM GRANT ADMINISTRATION POLICY FOR  
MAJOR FACILITIES GRANTS – RFA 07-03**

**CHAPTER VII – POLICIES FOR MAJOR FACILITIES GRANT PROGRAM:**

**Subpart A. General Policies Applicable to Major Facilities Grants Under Proposition 71**

Purpose: This subpart provides background authority for the policy and indicates the basic eligibility requirement for grant applicants, to wit: a not-for-profit entity. The minimum standards of Proposition 71 are described with respect to a preference for California suppliers. These requirements are stated in Health and Safety Code section 125290.30.

Rationale: As a primary source document for potential applicants and grantees, the policy should identify all minimum standards as required by Proposition 71. Restating these threshold conditions ensures potential applicants are aware of their obligations from the start of the process.

**Subpart B. Construction Process--Prevailing rate of per diem wages on construction.**

Purpose: This subpart alerts grantees to the requirements in the construction and procurement processes. This subsection states the Proposition 71 requirement that all workers employed on CIRM-funded projects receive the prevailing wage and must make appropriate certifications to CIRM regarding compliance with Health and Safety Code section 125290.65, subdivision (b)(1)(E).

Rationale: Health and Safety Code section 125290.65 requires applicants use the “prevailing wage” in their communities and that grantees receive up to a maximum reimbursement rate as determined by the ICOC. The ICOC fulfills those requirements in this Subpart by alerting applicants to the prevailing wage requirement. The CIRM is able to monitor compliance and ensure the grantee is aware of the requirement by requiring a certification by the grantee that this condition is met. For assistance, the sample form is attached as Appendix B to the policy.

**Subpart C. Provisions Applicable to Equipment Purchases.**

Purpose: This subpart states that equipment purchases will not be covered by funds appropriated under this grant. The subpart alerts potential grantees that the ICOC may in the future make allotments in future supplements that may make such appropriations.

Rationale: This RFA is unlike the prior facilities and equipment RFA, which made appropriations for equipment purchases. This subpart is intended to make clear to grantees that the Major Facilities Grant will only be for facilities and not for equipment.

**Subpart D. Matching Funds**

Purpose: CIRM's Major Facilities Grant Program requires that applicants provide matching funds equal to a minimum of 20 percent of the CIRM amount. Health & Saf. Code, § 125290.65(b)(1)(G). This match cannot be expended on the project until the day after the ICOC approves the Part Two grant application for funding. Any funds expended prior to approval will not be treated as matching funds. As discussed in paragraph (E) however, funds expended prior to approval may be considered "project leverage".

Rationale: The use of matching funds ensures the CIRM funds are leveraged for maximum benefit yield per CIRM dollar. By providing for equity matching, CIRM expands that leverage to enable broader development opportunities. This section clarifies that while expenditures on a facility may not be counted as matching funds, the expenditures may be considered "product leverage." Because facilities expenditures are expected to occur at both time points relative to grant approval, this clarity ensures potential grantees are able to properly allocate their expenditures.

#### **Subpart E. Project Leverage.**

Purpose: RFA 07-03 encourages applicants to commit additional funds to the CIRM-funded project beyond the minimum cash match. Therefore, this subpart states that these funds are referred to as project leverage and will be a basis for competitive evaluation of grant applications in the technical review. Project leverage includes funds expended on the CIRM-funded project from other than CIRM or matching funds including: (1) funds used to purchase land and/or a building at the documented cost to the institution; (2) funds used or budgeted to purchase the initial complement of research equipment (Group 2 equipment) to be located in the CIRM-funded facility at the time it becomes operational; and (3) other capitalized project costs including funds expended at any time for planning, design or partial construction of the CIRM-funded project. When considering project leverage, the amount attributable to internal project overhead and architectural and engineering services (other than structural and seismic engineering services) in excess of 10 percent of the budgeted construction contract costs shall not be included. An appendix (B) is attached as a sample.

Rationale: To encourage the broadest support for CIRM-funded facilities and to ensure that CIRM dollars have the greatest impact, grantees are encouraged to identify and utilize resources that, though they may not account for minimum cash matches, may nonetheless service a project. To recognize that support, this provision is necessary and alerts potential grantees that such support will be considered in evaluating the merits of a program.

#### **Subpart F. Commitment to Use Space for Stem Cell-Related Research.**

Purpose: This subpart states that grantees must assign CIRM funded facilities to stem cell related research for a minimum of ten years.

Rationale: CIRM investment in major facilities represents a significant commitment of the state's resources to durable assets. This requirement ensures that state resources expended for the purposes of stem cell research are indeed utilized in that capacity.

### **Subpart G: Recognition of CIRM Funding.**

Purpose: Subdivision 1: Ceremonies

This section states that grantees shall conduct ceremonies for groundbreaking and dedication of facilities funded under RFA 07-03 in recognition of the substantial contribution of the State of California in construction of new facilities for stem cell research. At such ceremonies, the Grantee shall provide the opportunity for recognition of the funding provided by CIRM with participation by CIRM leaders drawn from the ICOC, the Facilities Working Group and CIRM staff.

Subdivision 2: Naming of Facilities

In recognition of the substantial contribution of the State of California in construction of new facilities for stem cell research, this section states that grantees shall include CIRM in the naming or designation of a building that was funded or partially funded under RFA 07-03 subject to approval of the ICOC. The naming may include recognition of other donors, honorees or contributors. CIRM recognizes that the primary third-party donors would be expected to receive primary and/or dominate recognition in the naming of the building. Such naming shall remain in effect for the useful life of the facility for as long as it houses stem cell related programs. Naming proposals shall be submitted to CIRM for approval by the ICOC prior to completion of the project.

Rationale: These subsections require acknowledgment of CIRM funding in light of the significance of CIRM's participation in constructing durable assets for the state of California and these research institutions. By requiring ICOC approval, this section ensures that the CIRM and its grantees work together to give appropriate recognition to the State.

### **Subpart H: Oversight and Payment Procedures**

Purpose: This subpart indicates how grantees will receive funds from the CIRM and the conditions attendant to distribution.

Subsection 1 describes options for payment of construction grant funds to be made in consultation with the President of CIRM and the grantee. The final decision is up to the President of CIRM. The first option provides for payment of the full amount upon certification by the grantee that all matching funds have been spent and with the assurance that CIRM will share in cost savings. This subpart also provides for a penalty payment back to CIRM in the event of delays in the project completion. The second option provides for quarterly payments of CIRM fund after the appropriate certification by the grantee that all matching funds have been expended. The third option provides payment after all non-CIRM funds have been spent by the grantee.

Subsections 1(b) and 1(c) describe the conditions under which assurances of compliance shall be documented, as determined by how payment by CIRM is provided in subsection

1(a). A drawdown schedule is attached as an appendix to clarify how the projected spending by the grantee is anticipated.

Subsection 2 describes requirements related to on-time completion. This section states that where CIRM has awarded a grant based on an application that projects completion within two years from the date of Notice of Grant Award, the grantee must use best efforts to achieve the projected completion date. These efforts may include but are not limited to payment for premium time and overtime, expedited charges and shipping, contract completion incentives and expedited resolution of any and all contractual or regulatory issues that might otherwise delay the project. At the completion of the project, the President of CIRM will review any delays and may assess a penalty if, the President, in his or her sole discretion, determines that the grantee did not use best efforts to complete the project within two years. The penalty for failure to use best efforts will be one (1) percent of the CIRM grant for each month of delayed project completion with a maximum penalty of 10 percent for a 10 month delay. The completion date projected in the application will be adjusted to account for the actual issuance date of the Notice of Grant Award.

Subsection 3 describes obligations of grantees pertaining to progress reports and project close-out. This section identifies progress reports that must be made to the CIRM and attaches as Appendix C the form that must be used. The reports are to be submitted every three months. CIRM staff may perform on-site inspections and access must be assured. This section also describes the circumstance of project close-out as occurring when a Notice of Completion is filed. Once the President of CIRM has received the Notice and reviewed compliance with the obligations of the grantee, the President will authorize final payment, or will reduce or withhold payment as necessary.

Subsection 4 restates CIRM's reservation of the right to perform a post-completion audit of the project's expenditures to ensure compliance with the terms of the RFA and CIRM's administration policies.

Rationale: These components are necessary aspects of a comprehensive grant administration policy. The provisions ensure grantees are aware of the threshold conditions for receipt of payments due under the grant and their obligations to report progress and completion of the project.

Regarding subsection 2, Proposition 71 specifies that the criteria, requirements, and standards for awarding facilities grants shall include "priority for applicants that provide for facilities that will be available for research no more than two years after the grant award." (Health & Saf. Code, § 125290.65(b)(1)(B).) This section ensures compliance with that section.

### **Subpart I. Additional Glossary of Terms**

Purpose: The definitions contained in this section shall apply to their respective terms used in Chapter VIII of the policy. Specifically, the term "facility" is defined.

Rationale: To make specific the language and terminology used in formulating these regulations.

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